

Senate Bill No. 190

Passed the Senate September 6, 2007

Secretary of the Senate

Passed the Assembly September 4, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 92020 and 92032 of, and to add Sections 66602.5 and 66602.7 to, the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 190, Yee. Public postsecondary education: California State University: University of California: open meetings: Higher Education Governance Accountability Act.

(1) Existing law establishes the Trustees of the California State University, and provides for the administration of the university by that body. Under existing law, the membership of the trustees includes 16 members appointed by the Governor and 5 ex officio members, who are the Governor, the Lieutenant Governor, the Superintendent of Public Instruction, the Speaker of the Assembly, and the person named by the trustees to serve as the Chancellor of the California State University.

Existing law, the Bagley-Keene Act, generally requires, with specified exceptions for authorized closed sessions, that the meetings of state bodies be open and public and that all persons be permitted to attend. The Bagley-Keene Act also generally requires that the agenda for meetings provide an opportunity for members of the public to directly address the body of any item of interest to the public that is within the subject matter jurisdiction of the body. Each member of a state body who attends a meeting of that body in violation of any provision of the Bagley-Keene Act, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under the act, is guilty of a misdemeanor.

This bill would enact the Higher Education Governance Accountability Act.

This bill would make all meetings of the trustees subject to the Bagley-Keene Act, except as provided in the bill. By extending the provisions of the Bagley-Keene Act to cover the meetings of the trustees, the bill would constitute a state-mandated local program by creating a new crime.

The bill would require the trustees to take action in open session on an executive compensation proposal concerning the Chancellor of the California State University, the president of an individual campus, a vice chancellor, the treasurer, the assistant treasurer, the general counsel, or the trustees' secretary.

(2) Existing law establishes the Regents of the University of California, and provides for the administration of the university by that body. Under existing law, the membership of the regents includes 18 members appointed by the Governor and 7 ex officio members, who are the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the president and vice president of the alumni association of the university, and the acting president of the university. Under existing law, meetings of the regents are subject to the Bagley-Keene Act, except as otherwise prescribed in provisions specifically applicable to the regents.

Existing law generally authorizes the regents, defined to mean the board of regents and its standing and special committees or subcommittees, other than groups of 3 or fewer regents appointed to advise and assist the university administration in contract negotiations, to conduct closed sessions when they meet to consider or discuss specified matters, including matters concerning the appointment, employment, performance, compensation, or dismissal of certain university officers or employees. Existing law requires action by the regents on compensation proposals for the principal officers of the regents and the officers of the university, as defined, to be in open session.

This bill would provide that the definition of the regents for these purposes would include an advisory board, advisory commission, advisory committee, advisory subcommittee, study group, task force, or similar multimember advisory body of the Board of Regents that has continuing subject matter jurisdiction in the area of compensation, if created by formal action of the Board of Regents or of any member of the Board of Regents, and if the advisory body so created consists of one or more regents, other than ex officio members of the Board of Regents, except as specified. The bill would also require action taken on an executive compensation proposal concerning the President of the University of California, the chancellor of an individual campus, a vice

president, the treasurer, the assistant treasurer, the general counsel, or the secretary to occur in open session.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. This act shall be known, and may be cited, as the Higher Education Governance Accountability Act.

SEC. 2. Section 66602.5 is added to the Education Code, to read:

66602.5. All meetings of the trustees shall, except as otherwise provided in Section 66602.7, be subject to Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 66602.7 is added to the Education Code, to read:

66602.7. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) (1) Action taken by a committee of the trustees and final action by the full board of trustees, on a proposal for the compensation package of the following executive officers shall occur in an open session of each of those bodies, and shall include a disclosure of the compensation package and rationale for the action:

- (A) The Chancellor of the California State University.
- (B) The president of an individual campus.
- (C) A vice chancellor.
- (D) The treasurer.
- (E) The general counsel.
- (F) The trustees' secretary.

(2) Members of the public shall be afforded the opportunity to address the committee and full board on the proposal during or before consideration of the action item.

(b) Discussion by a committee of the trustees of, and action on, an executive compensation program or policy, and any final action by the full board of trustees on that program or policy, shall occur in open session of each of those bodies.

(c) Compensation for the principal officers of the trustees and the officers of the university shall include salary, benefits, perquisites, severance payments (except those made in connection with a dismissal or a litigation settlement), retirement benefits, or any other form of compensation.

SEC. 4. Section 92020 of the Education Code is amended to read:

92020. (a) As used in this article, “Regents of the University of California” means any of the following:

(1) The Board of Regents of the University of California.

(2) The standing and special committees or subcommittees of the Board of Regents.

(3) An advisory board, advisory commission, advisory committee, advisory subcommittee, study group, task force, or similar multimember advisory body of the Board of Regents that has continuing subject matter jurisdiction in the area of compensation, if created by formal action of the Board of Regents or of any member of the Board of Regents, and if the advisory body so created consists of one or more regents, other than ex officio members of the Board of Regents. An advisory group the purpose of which is to recruit executives for the university is excluded from this paragraph.

(b) As used in this article, “Regents of the University of California” does not include groups of three or fewer regents appointed to advise and assist the university administration in contract negotiations.

SEC. 5. Section 92032 of the Education Code is amended to read:

92032. Notwithstanding Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code:

(a) The Regents of the University of California, as occasioned by necessity, may hold special meetings. The regents shall give public notice for these meetings. This notice shall be given by means of a notice hand delivered or mailed to each newspaper of general circulation and television or radio station that has requested

notice in writing, so that the notice may be published or broadcast at least 72 hours before the time of the meeting. The notice shall specify the time, place, and agenda of the special meeting. The regents shall not consider any business not included in the agenda portion of the notice. Failure to comply with this subdivision shall not be excused by the fact that no action was taken at the special meeting.

(b) The Regents of the University of California may conduct closed sessions when they meet to consider or discuss any of the following matters:

- (1) Matters affecting national security.
- (2) The conferring of honorary degrees or other honors or commemorations.
- (3) Matters involving gifts, devises, and bequests.
- (4) Matters involving the purchase or sale of investments for endowment and pension funds.
- (5) Matters involving litigation, when discussion in open session concerning those matters would adversely affect, or be detrimental to, the public interest.
- (6) The acquisition or disposition of property, if discussion of these matters in open session could adversely affect the regents' ability to acquire or dispose of the property on the terms and conditions they deem to be in the best public interest.
- (7) (A) Matters concerning the appointment, employment, performance, compensation, or dismissal of university officers or employees, excluding individual regents other than the president of the university.

(B) (i) Action taken by a committee of the regents, and final action by the full board of regents, on a proposal for the compensation package of the following executive officers shall occur in an open session of each of those bodies, and shall include a disclosure of the compensation package and rationale for the action:

- (I) The President of the University of California.
- (II) The chancellor of an individual campus.
- (III) A vice president.
- (IV) The treasurer or the assistant treasurer.
- (V) The general counsel.
- (VI) The regents' secretary.

(ii) Members of the public shall be afforded the opportunity to address the committee and full board on the proposal during or before consideration of the action item.

(C) Discussion by a committee of the regents of, and action on, an executive compensation program or policy, and any final action by the full board of regents on that program or policy, shall occur in open session of each of those bodies.

(D) Compensation for the principal officers of the regents and the officers of the university shall include salary, benefits, perquisites, severance payments (except those made in connection with a dismissal or a litigation settlement), retirement benefits, or any other form of compensation.

(8) Matters relating to complaints or charges brought against university officers or employees, excluding individual regents other than the president of the university, unless the officer or employee requests a public hearing.

(c) While a witness is being examined during any open or closed session, any or all other witnesses in the investigation may be excluded from the proceedings by the regents.

(d) Committees of the regents may conduct closed sessions on Medi-Cal contract negotiations.

(e) The nominating committee of the regents may conduct closed sessions held for the purpose of proposing officers of the board and members of the board's various committees.

(f) Committees of the regents may conduct closed sessions held for the purpose of proposing a student regent.

(g) The regents shall not be required to give public notice of meetings of special search or selection committees held for the purpose of conducting interviews for university officer positions.

SEC. 6. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2007

Governor